IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3908 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAHAVIR VIDHYAMANDIR TRUST - Petitioner(s)
Versus
JUSTICE R.J.SHAH (RETD.) FEE COMMITTEE(HIGHER & TECH. EDU.) - Respondent(s)

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Appearance :
MR DC DAVE for Petitioner(s) : 1,
MR DIPAK R DAVE for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 11/09/2006

ORAL JUDGMENT

1. In the present petition, the petitioner trust has challenged an order dated 16/21st June, 2005 passed by the Respondent-Justice R.J.Shah(Retd.) Fee Committee.

2. Learned advocates appearing for the parties pointed out that under similar circumstances learned Single Judge of this Court by order passed in Special Civil Application No.109/05 and connected matters dated 10th February, 2006, has been pleased to set aside the order of the Committee fixing fee structure primarily on the ground that the order is without assigning reasons and that uniform orders have been passed in case of several institutions. In para 16 of the said decision, following observations have been made by the learned Single Judge.

> "16. For the reasons stated hereinabove, the petitions succeeds in part. The impugned decision of the respondent Committee dated 14/12/2004 is hereby quashed and set aside for the reasons as aforesaid and the matter

is remanded to the respondent Committee for passing appropriate reasoned and speaking order in accordance with law and on merits, after considering the submissions that may be made by the respective petitioners through their representative, if any, more particularly by one of the office bearers of the petitioner Association with regard to their individual cases, and take appropriate decision within a period of six weeks from the date of receipt of representation from the petitioners if any, to be submitted on or before 1/3/2006 and to remain present on 1/3/2006 at the first instance. The respondent Committee shall communicate their decision to the individual institutions and till then the present interim arrangement is directed to be continued and the parties shall abide by the decisions that may be taken by the respondent Committee on remand, of course, subject to challenge before the higher forum, in accordance with law and on merits."

3. Material facts being identical, this petition should also be disposed of in the same manner.

4. In the result, petition is allowed in part. Impugned order dated 16/21st June, 2005 is quashed. Respondent Committee shall pass a fresh order within a period of eight weeks from the date of receipt of a copy of this order.

5. Learned advocate Shri D.C.Dave for the petitioner submitted that the University had collected fees higher than what the Committee ultimately permitted in the impugned order. This was at the time when fee structure was not yet provided by the Committee. He submitted that the petitioner has received only that amount which the Committee has permitted. Excess amount is still lying with the University. It is, therefore, provided that the amount lying with the University as mentioned above will not be paid either to the petitioner or disbursed amongst the students till the committee take a fresh decision as provided herein above.

Additionally, the petitioner shall not collect herein after fees in excess of what the Committee provided for in the order which is impugned. This arrangement shall be ad hoc and subject to fresh order that may be passed by the Committee and subject to further order in this regard. It will be open for the petitioner to obtain necessary undertaking from the students accordingly.

6. With these observations and directions, petition is disposed of. Rule is made absolute to the above extent. No costs.

(Akil Kureshi, J.)

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